

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION AT WORCESTER

MICHAEL DAWE,

Plaintiff

v.

CAPITAL ONE BANK,

Defendants

Complaint

04-40192

Demand for Jury Trial

Jurisdiction

1. Jurisdiction of this Court attains pursuant to the Fair Credit Reporting Act ("FCRA"), section 1681p, and the law of supplemental jurisdiction.

Parties

2. Michael Dawe is a natural person who resides in Barre in Worcester County, Massachusetts.

3. Mr. Dawe is a "consumer" as defined by FCRA section 1681a(c).

4. Defendant Capital One Bank is a Virginia corporation with principal place of business in Richmond, Virginia.

5. Defendant Capital One Bank is a "furnisher of information" as used by FCRA section 1681s-2(b).

6. Defendant Capital One Bank regularly does business in the State of Massachusetts by, among other things, providing credit to Massachusetts residents.

page 1

RECEIPT # 404410
AMOUNT \$ 150.00
SUMMONS ISSUED 1
LOCAL RULE 4.1 ✓
WAIVER FORM ✓
MCF ISSUED ✓
BY DPTY. CLK. KH
DATE 9/27/04

7. Defendant Capital One Bank is engaged in "trade" and "commerce" as defined by the Massachusetts Consumer Protection Act ("Chapter 93A"), ch. 93A s. 1(b).

8. At all times during their activities concerning Mr. Dawe, Defendant Capital One Bank's employees were acting under the supervision and direction of Defendant Capital One Bank.

9. Defendant Capital One Bank is liable under the doctrine of *respondeat superior* for the activities of its employees.

Allegations

10. On December 17, 2002, Defendant filed suit against Mr. Dawe in the Worcester District Court.

11. The suit was an attempt to collect on an alleged debt incurred for personal, family, or household purposes.

12. On June 2, 2003, Mr. Dawe moved to dismiss Defendant's state court complaint for Defendant's failure to respond to discovery as ordered by the trial court.

13. On June 10, 2003, the Worcester District Court granted Mr. Dawe's motion.

14. A true and accurate of the June 10, 2003, judgment entry is attached.

15. Pursuant to Massachusetts Rule of Civil Procedure 41(b)(3), this involuntary dismissal was with prejudice.

16. Defendant continued to allege that Mr. Dawe owed the debt and continued its attempts to collect from Mr. Dawe.

17. A true and accurate copy of Defendant's April 23, 2004, letter is attached.

18. Defendant sent the account to a third party debt collector, Account Solutions Group ("ASG"), for collections.

19. A true and accurate copy of ASG's November 10 ,2004, collection letter is attached.

20. A true and accurate copy of ASG's November 19 ,2004, collection letter is attached.

21. On January 26, 2004, Mr. Dawe obtained copies of his credit reports from Equifax and Trans Union.

22. A redacted copy of Mr. Dawe's credit report from Equifax is attached.

23. A redacted copy of Mr. Dawe's credit report from Trans Union is attached.

24. These credit reports show Defendant's trade line for the alleged debt.

25. Mr. Dawe wrote to Equifax, Experian, and Trans Union on June 9, 2004, disputing the trade line.

26. True and accurate copies of Mr. Dawe's June 9 letters are attached.

27. The June 9 letters were sent via certified mail, return receipt requested.

28. True and accurate copies of the certified mail receipts

and United States Postal Service web page printouts, showing receipt, are attached.

29. Defendant confirmed its trade line as reported by all three credit bureaus.

30. Redacted copies of the responses from Equifax, Experian, and Trans Union, showing Defendant's confirmation, are attached.

31. As a consequence of Defendant's continued attempts to collect and Defendant's failure to remove the wrong information from his consumer report, Mr. Dawe has suffered economic loss as well as loss of self esteem and peace of mind, and has suffered emotional distress, humiliation and embarrassment.

Count I

FCRA Intentional Violations

32. The previous paragraphs are incorporated into this Count as if set forth in full.

33. The acts and omissions of Defendant are wilful violations of the FCRA.

34. Pursuant to FCRA section 1681n and the Declaratory Relief Act, Plaintiff is entitled to actual damages not under \$100 and not over \$1000, to punitive damages, and to declaratory relief, as well as reasonable attorney's fees and costs.

Count II

FCRA Negligent Violations

35. The previous paragraphs are incorporated into this Count as if set forth in full.

36. The acts and omissions of Defendant are negligent

violations of the FCRA.

37. Pursuant to FCRA section 1681o and the Declaratory Relief Act, Plaintiff is entitled to actual damages and to declaratory relief, as well as reasonable attorney's fees and costs.

Count III

Chapter 93A

38. The previous paragraphs are incorporated into this Count as if set forth in full.

39. The acts and omissions of Defendant constitute violations of Chapter 93A:2.

40. Pursuant to Chapter 93A:9, demand was made upon Defendant at least thirty days prior to litigation.

41. A true and accurate copy of that demand letter, with the U.S. Postal Service certified mail return receipt card, is attached.

42. Defendant responded, but made no offer to settle. Indeed, Defendant continued to attempt to collect on the alleged debt despite the dismissal with prejudice.

43. True and accurate copy of Defendant's response letter is attached.

44. Pursuant to Chapter 93A:9, Plaintiff is entitled to actual damages, to declaratory relief, to an injunction prohibiting Defendants from the acts and practices that violate state law, and treble damages, as well as reasonable attorney's fees and costs.

Count IV

Negligent Infliction of Severe Emotional Distress

45. The previous paragraphs are incorporated into this Count as if set forth in full.

46. Defendant's actions constitute negligent infliction of severe emotional distress.

47. Plaintiff is entitled to actual damages in an amount to be awarded within the reasonable discretion of a jury.

Count V

Intentional Infliction of Severe Emotional Distress

48. The previous paragraphs are incorporated into this Count as if set forth in full.

49. Defendant's actions constitute intentional infliction of severe emotional distress.

50. Plaintiff is entitled to actual damages in an amount to be awarded within the reasonable discretion of a jury.

Count VI

Negligence

51. The previous paragraphs are incorporated into this Count as if set forth in full.

52. Defendant had duties to stop collection attempts and to repair Plaintiff's consumer report.

53. Defendant breached these duties, proximately and directly causing damage to Plaintiff.

54. Plaintiff is entitled to actual damages in an amount to be

awarded within the reasonable discretion of a jury.

Count VII

Defamation

55. The previous paragraphs are incorporated into this Count as if set forth in full.

56. Defendant's entries on Plaintiff's credit histories constitute common law defamation.

57. Plaintiff is entitled to actual damages in an amount to be awarded within the reasonable discretion of a jury.

Prayer

WHEREFORE, Plaintiff prays that the Court grants the following:

1. Actual damages under state and federal law.
2. Punitive damages under federal law.
3. Statutory damages under state and federal law.
4. A declaration under state and federal law concerning the illegality of Defendants' acts and practices.
5. An injunction prohibiting Defendants from violating state and federal law.
6. Reasonable attorney's fees and costs.
7. Such other and further relief as the Court deems just and proper.


Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jason David Fregeau', is written over the closing and name.

Jason David Fregeau,
Trial Attorney (565657)

47 Lincoln Road
Longmeadow, MA 01106
413/567-2461
413/567-2932 fax

Attorney for Plaintiff

JUDGMENT OF DISMISSAL		DOCKET NUMBER 200262CV002639	Trial Court of Massachusetts District Court Department	
CASE NAME CAPITAL ONE BANK vs. MICHAEL J. DAWE				
PLAINTIFF(S) WHO ARE PARTIES TO THIS JUDGMENT P01 CAPITAL ONE BANK			CURRENT COURT Worcester District Court 50 Harvard Street Worcester, MA 01608-1198 (508) 757-8350	
DEFENDANT(S) WHO ARE PARTIES TO THIS JUDGMENT D01 MICHAEL J. DAWE			ROOM/SESSION	←←←←← WHEN YOU MUST APPEAR ←←←←←
PARTY TO WHOM THIS COPY OF JUDGMENT IS ISSUED D01 MICHAEL J. DAWE 744 WHEELWRIGHT RD. BARRE, MA 01005				
ATTORNEY FOR PARTY TO WHOM THIS COPY OF JUDGMENT IS ISSUED				
<p align="center">JUDGMENT OF DISMISSAL</p> <p>On the above action, upon motion, it is hereby Ordered and Adjudged by the Court, or judgment is hereby entered directly by the Clerk-Magistrate in accordance with the Massachusetts Rules of Civil Procedure, that this action be dismissed, and that the Plaintiff(s) take nothing (Brennan, Hon. Dennis J.).</p> <p align="center">NOTICE OF ENTRY OF JUDGMENT</p> <p>Pursuant to Mass. R. Civ. P. 54, 58, 77(d) and 79(a), this Judgment has been entered on the docket on the "Date Judgment Entered" shown below, and this notice is being sent to all parties.</p>				
DATE JUDGMENT ENTERED 06/10/2003	CLERK/MAGISTRATE/ASST. CLERK <i>X Michael P. ...</i>			



Capital One Services, Inc.
P.O. Box 85699
Richmond, VA 23285-5699

April 23, 2004

Michael J. Dawe
744 Wheelright Rd.
Barre, MA 01005-8850

Re: 7812601777706746

Dear Mr. Dawe,

Thank you for your recent letter to Capital One. I appreciate the opportunity to assist you but apologize for any confusion surrounding the above referenced account.

As you requested, we have discontinued collection efforts which should prevent the receipt of additional calls or letters intended for the purpose of debt collection. Our Financial Solutions and Recoveries Departments, and the agencies we employ, adhere to all applicable guidelines and regulations when contacting customers regarding delinquent accounts.

A review of our records indicates that your account was opened on September 20, 2000, following the receipt of a signed application for credit. Regrettably, not all payments were received in a timely manner as requested and your account was charged off as an unpaid debt on August 27, 2002. As of the date of this letter, your account reflects a balance of \$16,032.46. For your reference, I have enclosed a copy of the original application.

I apologize for any inconvenience that this matter has caused and hope that you will not hesitate to call me directly with any questions or remaining concerns. I can be reached by calling 800-955-1455, Ext. 494-2552.

Sincerely,

A handwritten signature in black ink, appearing to read "Will Milligan".

Will Milligan
Executive Offices
Capital One Services, Inc.

Enclosure

Case 4:04-cv-40192-FDS
PO BOX 628
BUFFALO, NY 14240-0628

Document 1

Filed 09/27/2004 Page 11 of 32

Account Solutions Group, LLC

205 Bryant Woods South
Amherst, NY 14228

ADDRESS SERVICE REQUESTED

1-800-741-8860

11-10-03 3545884

RE: CAPITAL ONE SERVICES
ACCOUNT #: 3545884
BALANCE: \$15,375.20

#BWNDLZK
#F000 041D KK43#

|||||

MICHAEL J DAWE
744 WHEELWRIGHT RD
BARRE MA 01005-8850

A569
BG29
N1

ACCOUNT SOLUTIONS GROUP, LLC.
PO BOX 628
BUFFALO, NY 14240-0628

|||||

IMPORTANT: To receive proper credit, be sure to enclose this portion with your payment.

Dear Michael J Dawe:

ANY DISHONORED CHECK OR ITEM MAY BE ASSESSED
A SERVICE CHARGE AS AUTHORIZED BY STATE LAW.

This account has been listed with our office for collection. Enclose your payment in the envelope provided and make your check or money order payable to ACCOUNT SOLUTIONS GROUP, LLC. All payments and correspondence should be sent to our Buffalo, NY mailing address: PO Box 628, Buffalo, NY 14240-0628.

Should you wish to speak to a representative concerning your account you may contact this office toll free at 1-800-741-8860. Please refer to the account number indicated above. Our office hours are Monday through Friday 8am-10pm EST, Saturday 8am-12pm EST, and Sunday 5pm-10pm EST.

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that this debt or any portion thereof is disputed, this office will obtain verification of the debt or obtain a copy of a judgment against you and mail you a copy of such verification or judgment. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Notice of Important Rights:

You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten (10) days unless you provide written confirmation of the request postmarked or delivered within seven (7) days of such request. You may terminate this request by writing to the collection agency.

All payments and correspondence should be sent to our mailing address: Account Solutions Group, LLC; PO Box 628; Buffalo, NY 14240-0628. Our Massachusetts office is located at 8 Suburban Park Drive, Billerica, MA 01821.

Sincerely,

ACCOUNT SOLUTIONS GROUP, LLC
A Professional Debt Recovery Agency



Case 4:04-cv-40192-FDS
PO BOX 628
BUFFALO, NY 14240-0628

Document 1

Filed 09/27/2004 Page 12 of 32



Account Solutions Group, LLC

205 Bryant Woods South
Amherst, NY 14228

ADDRESS SERVICE REQUESTED

1-800-741-8860

11-19-03 3545884

RE: CAPITAL ONE SERVICES
ACCOUNT #: 3545884
SETTLEMENT OFFER: \$9000.00
BALANCE: \$15,411.72

#BWNDLZK
#F000'042I BCO0#



MICHAEL J DAWE
744 WHEELWRIGHT RD
BARRE MA 01005-8850

A029
FC2
SIF

ACCOUNT SOLUTIONS GROUP, LLC
PO BOX 628
BUFFALO, NY 14240-0628



IMPORTANT: To receive proper credit, be sure to enclose this portion with your payment.

Dear Michael J Dawe:

As an authorized representative of our client CAPITAL ONE SERVICES, we have permission to offer you an opportunity to pay less than the amount due. This settlement, as offered, shall be in the total amount of \$9000.00.

This settlement offer will expire unless we receive your payment of \$9000.00, due in our office on or before 11-30-03.

Should you accept this settlement offer, upon receipt and clearance of your payment, we will notify our client so it can update its records accordingly to reflect a settlement in full.

If you have any questions relative to the above referenced settlement, please do not hesitate to contact our office toll free at 1-800-741-8860. Our office hours are Monday through Friday 8am-10pm EST, Saturday 8am-12pm EST, and Sunday 5pm-10pm EST.

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Notice of Important Rights:

You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten (10) days unless you provide written confirmation of the request postmarked or delivered within seven (7) days of such request. You may terminate this request by writing to the collection agency.

All payments and correspondence should be sent to our mailing address: Account Solutions Group, LLC; PO Box 628; Buffalo, NY 14240-0628. Our Massachusetts office is located at 8 Suburban Park Drive, Billerica, MA 01821.

Sincerely,

ACCOUNT SOLUTIONS GROUP, LLC
A Professional Debt Recovery Agency



CAPITAL ONE FSB # 7812601777706746 REVOLVING ACCOUNT
>PROFIT AND LOSS WRITEOFF< CREDIT CARD
UPDATED 01/2004 BALANCE: \$15598 INDIVIDUAL ACCOUNT
OPENED 09/2000 MOST OWED: \$12843
CLOSED 09/2002 >PAST DUE: \$15598<
>STATUS AS OF 09/2002: CHARGED OFF AS BAD DEBT<

U.S. Postal Service TM		CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)			
For delivery information visit our website at www.usps.com			
OFFICIAL USE			
Postage	\$ 0.37	UNIT ID: 0005	
Certified Fee	2.30	Postmark Here	
Return Receipt Fee (Endorsement Required)	1.75	Clerk: DZONHO	
Restricted Delivery Fee (Endorsement Required)		06/09/04	
Total Postage & Fees	\$ 4.42		

Sent To	
MCAC	
Street Apt. No. or PO Box No. PO Box 9595	
City, State, ZIP+4 ALLEN TX 75013	

PS Form 3800, June 2002 See Reverse for Instructions

REQUEST FOR INVESTIGATION

Name: DAWE, MICHAEL, JOSEPH

Address: 744 WHEELWRIGHT RD. BARRE, MA

Date of Birth: 10/26/1955

Social Security #: 026-46-6297

Telephone: (978) 3556742

Company Name as listed on report:

Capital One FSB

Account number:

#781260177770....

REASON:

1. This account is listed on my report, it should not be listed at all, this account **IS NOT MINE.**
2. In a lawsuit Capital One FSB file against Michael J Dawe in 1/03 Capital One FSB could not prove this account existed and in 6/03 by court order the case was dismissed. A copy of the dismissal order is enclosed.
3. Please investigate and remove this account from my file, as it does not exist.

Regards

USPS - Track & Confirm

http://trkcnfrm1.smi.usps.com/nctdata-cgi/db2www/cbd_243.d2w/o...



Track & Confirm

Current Status

You entered 7004 0550 0000 8699 6537

Your item was delivered at 12:51 pm on June 14, 2004 in ALLEN, TX 75013.

[Shipment Details](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#) [Go](#)

Notification Options

☒ Track & Confirm by email

[What is this?](#)

[Go](#)

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
 - Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 - Print your name and address on the reverse so that we can return the card to you.
 - Attach this card to the back of the mailpiece, or on the front if space permits.

MCA
PO BOX 9595
ALLEN, TX 75013

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☒ X

☐ Agent

B. Received by (Printed Name)

☐ Addr.

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merch.
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7004 0550 0000 8699 6537

6/15/2004 10:07 AM

U.S. Postal Service

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com**OFFICIAL USE**

ATLANTA, GA 30374

Postage \$ 0.37

UNIT ID: 0005

Certified Fee 2.30

Return Receipt Fee
(Endorsement Required) 1.75Restricted Delivery Fee
(Endorsement Required)Postmark
Here

Clerk: DZONHO

Total Postage & Fees \$ 4.42

06/09/04

Sent To	
CONFAX INFORMATION SERVICES	
Street, Apt. No., or PO Box No. PO Box 740256	
City, State, Zip+4 ATLANTA, GA 30374	

PS Form 3800, June 2002

See Reverse for Instructions

REQUEST FOR INVESTIGATION

Name: DAWE, MICHAEL, JOSEPH

Address: 744 WHEELWRIGHT RD. BARRE, MA

Date of Birth: 10/26/1955

Social Security #: 026-46-6297

Telephone: (978) 3556742

Company Name as listed on report:

Capital One FSB

Account number:

#781260177770....

REASON:

1. This account is listed on my report, it should not be listed at all, this account **IS NOT MINE.**
2. In a lawsuit Capital One FSB file against Michael J Dawe in 1/03 Capital One FSB could not prove this account existed and in 6/03 by court order the case was dismissed. A copy of the dismissal order is enclosed.
3. Please investigate and remove this account from my file, as it does not exist.

Regards

USPS - Track & Confirm



Track & Confirm

Current Status

You entered 7004 0550 0000 8699 6551

Your item was delivered at 12:53 pm on June 12, 2004 in ATLANTA, GA 30348.

[Shipment Details](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#) 60

Notification Options

Track & Confirm by email [What is this?](#)

DER: COMPLETE THIS SECTION Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, on the front if space permits.		COMPLETE THIS SECTION ON DELIVERY A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> B. Received by (Printed Name) <input type="checkbox"/> Addressee <input type="checkbox"/> C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, enter delivery address below:	
Article Addressed to: DIVISION INFORMATION SERVICES PO BOX 740256 ATLANTA, GA 30374		3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No	
Article Number Transfer from service label 7004 0550 0000 8699 6551		Domestic Return Receipt Form 3811, February 2004 102595-02-M-1540	

6/14/2004 12:41 PM

For delivery information visit our website at www.usps.com

CRUI LYNNES PA 19022 OFFICIAL USE

Postage	\$ 0.37	UNIT ID: 0005
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	Postmark Here
Restricted Delivery Fee (Endorsement Required)		Clerk: DZQNH0
Total Postage & Fees	\$ 4.42	06/09/04

Sent To	KRANSKON CONSUMER RELATIONS
Street, Apt. No., or PO Box No.	PO BOX 2000
City, State, ZIP+4	CHESTER PA 19022-2000

PS Form 3800, June 2002 See Reverse for Instructions

REQUEST FOR INVESTIGATION

Name: DAWE, MICHAEL, JOSEPH

Address: 744 WHEELWRIGHT RD. BARRE, MA

Date of Birth: 10/26/1955

Social Security #: 026-46-6297

Telephone: (978) 3556742

Company Name as listed on report:

Capital One FSB

Account number:

#7812601777706746

REASON:

1. This account is listed 2 times on my report, they should not be listed at all, these accounts **ARE NOT MINE**.
2. In a lawsuit Capital One FSB file against Michael J Dawe in 1/03 Capital One FSB could not prove this account existed and in 6/03 by court order the case was dismissed. A copy of the dismissal order is enclosed.
3. Please investigate and remove these accounts from my file, as they don't exist.

Regards

USPS - Track & Confirm



Track & Confirm

Current Status

You entered 7004 0550 0000 8699 6544

Your item was delivered at 8:55 am on June 11, 2004 in CRUM LYNNE, PA 19022.

[Shipment Details](#)

Track & Confirm

Enter label number:

[Track & Confirm FAQs](#)

Notification Options

[Track & Confirm by email](#)

[What is this?](#)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TRANS UNION CONSUMER QUESTIONS
PO BOX 2000
CHESTER, PA
19022-2000

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

TRANS UNION
CHESTER, PA 19022

☐ Agent

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☐ No

JUN 11 2004

3. Service Type

- ☐ Certified Mail
- ☐ Registered
- ☐ Insured Mail
- ☐ Express Mail
- ☐ Return Receipt for Merchandise
- ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

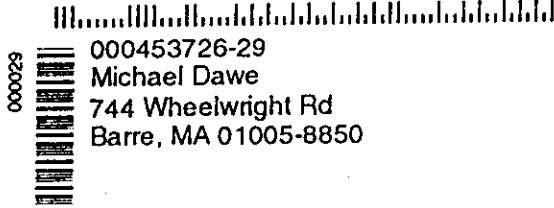
2. Article Number

(Transfer from service label)

7004 0550 0000 8699 6544

6/12/2004 8:03 AM

P. O. Box 105518
Atlanta, GA 30348



EQUIFAX

CREDIT FILE : June 26, 2004
Confirmation # 4168045754

Dear Michael Dawe:

Equifax has now completed the reinvestigation you requested of certain information in your Equifax credit file. The results of our reinvestigation of these items are below.

Credit Account Information (For your security, the last 4 digits of account number(s) have been replaced by *) (This section includes open and closed accounts reported by credit grantors)			
Account History	1 : 30-59 Days Past Due	5 : 150-179 Days Past Due	J : Voluntary Surrender
Status Code	2 : 60-89 Days Past Due	6 : 180 or More Days Past Due	K : Repossession
Descriptions	3 : 90-119 Days Past Due	G : Collection Account	L : Charge Off
	4 : 120-149 Days Past Due	H : Foreclosure	

The Results Of Our Reinvestigation

Account Number	Capital One, /sb	PO Box 26030 Richmond VA 23260-6030	(800) 355-7070	Credit Limit	Scheduled Payment Amount	Actual Payment Amount	Date of Last Payment	High Credit	Date Opened	Terms Duration	Terms Frequency	Months Revd	Activity Description	Creditor Classification
781260177770*				\$0	\$0	\$0	08/2001	\$12,843	09/2000					
Items As of Balance	Amount	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date of Del. 1st Pld	Charge Off Amount	Deferred Pay Start Date	Balloon Pay Amount	Balloon Pay Start Date	Date Closed			
06/2004	\$16,223	08/2001	\$0	\$0	08/2001		\$0		\$0					
Current Status - Charge Off ; Type of Account - Installment ; Type of Loan - Credit Card ; Whose Account - Individual Account;														
Account History	08/2002	07/2002	06/2002	05/2002										
with Status Codes	4	3	2	1										

>>> We have researched the credit account. Account # - 781260177770* The results are: Equifax verified that this item belongs to you. If you have additional questions about this item please contact: **Capital One, PO Box 26030, Richmond VA 23260-6030 Phone: (800) 955-7070**

If you have any additional questions regarding the information provided to Equifax by the source of any information, please contact the source of that information directly.

You may contact Equifax regarding the specific information contained in this letter within the next 60 days by visiting us at www.investigate.equifax.com or by calling a Customer Service Representative at (888) 588-0688 from 9:00am to 5:00pm M - F in your time zone.

Thank you for giving Equifax the opportunity to serve you.

*** 127657120-003 ***
P.O. Box 2000
Chester, PA 19022

YOUR TRANSUNION FILE NUMBER: 127657120
PAGE 1 OF 9
DATE THIS REPORT PRINTED: 06/26/2004

RETURN SERVICE REQUESTED

SOCIAL SECURITY NUMBER: XXX-XX-6297
BIRTH DATE: 10/1955
YOU HAVE BEEN IN OUR FILES SINCE: 12/1985
PHONE: 355-6742

CONSUMER REPORT FOR:

DAWE, MICHAEL, JOSEPH
744 WHEELWRIGHT RD
BARRE, MA 01005

|||||

FORMER ADDRESSES REPORTED:

1 WHEELWRIGHT RD, BARRE, MA 01005

EMPLOYMENT DATA REPORTED:

REEDRICO
DATE REPORTED: 03/1998

INVESTIGATION RESULTS

WE HAVE COMPLETED OUR REINVESTIGATION AND THE RESULTS ARE SHOWN BELOW.

ITEM	DESCRIPTION	RESULTS
CAPITAL ONE FSB	# 7812601777706746	NEW INFORMATION BELOW
CAPITAL ONE FSB	# 7812601777706746	NEW INFORMATION BELOW

ANY CORRECTIONS TO YOUR IDENTIFICATION REQUESTED BY YOU HAVE BEEN MADE AS NOTED ABOVE. YOUR UPDATED CREDIT INFORMATION FOLLOWS.

SPECIAL NOTES: YOUR SOCIAL SECURITY NUMBER HAS BEEN MASKED FOR YOUR PROTECTION. YOU MAY REQUEST DISCLOSURE OF THE FULL NUMBER BY WRITING TO US AT THE ADDRESS FOUND AT THE END OF THIS REPORT. ALSO, ANY ITEM ON YOUR CREDIT REPORT THAT BEGINS WITH 'MED1' INDICATES MEDICAL INFORMATION. THE DATA FOLLOWING THIS WORD IS NOT DISPLAYED TO ANYONE BUT YOU.

YOUR CREDIT INFORMATION

THE FOLLOWING ACCOUNTS CONTAIN INFORMATION WHICH SOME CREDITORS MAY CONSIDER TO BE ADVERSE. ADVERSE ACCOUNT INFORMATION MAY GENERALLY BE REPORTED FOR 7 YEARS FROM THE DATE OF THE FIRST DELINQUENCY, DEPENDING ON YOUR STATE OF RESIDENCE. THE ADVERSE INFORMATION IN THESE ACCOUNTS HAS BEEN PRINTED IN >BRACKETS< FOR YOUR CONVENIENCE, TO HELP YOU UNDERSTAND YOUR REPORT. THEY ARE NOT BRACKETED THIS WAY FOR CREDITORS. (NOTE: THE ACCOUNT # MAY BE SCRAMBLED BY THE CREDITOR FOR YOUR PROTECTION).

06270400000184 1/12 DT

REPORT ON DAWE, MICHAEL, JOSEPH
SOCIAL SECURITY NUMBER:

PAGE 2 OF 9
TRANSUNION FILE NUMBER: 127657120

CAPITAL ONE FSB PH#: (800) 955-7070
11013 W BROAD ST, GLEN ALLEN, VA 23060-5937
ACCT# 7812601777706746
>PROFIT AND LOSS WRITEOFF<
UPDATED 06/2004 BALANCE: \$16223
OPENED 09/2000 MOST OWED: \$12843
CLOSED 09/2002 >PAST DUE: \$16223<
>STATUS AS OF 06/2004: CHARGED OFF AS BAD DEBT<

REVOLVING ACCOUNT
CREDIT CARD
INDIVIDUAL ACCOUNT

experian

Prepared for
MICHAEL J DAWE
Report number
0888013775

Report date
July 01, 2004

Page 1 of 12

Correction Summary

About our verification process

The following shows the revision(s) made to your file as a result of our verification. If you still question an item, then you may want to contact the source of the information.

The federal Fair Credit Reporting Act states that you may:

- request a description of how we verified the information, including the business name and address contacted and the telephone number if reasonably available;
 - add a statement disputing the accuracy or completeness of the information; and
 - request that we send these results to organizations who have reviewed your credit report in the past two years for employment purposes or six months for any other purpose (twelve months for residents of Colorado, Maryland, and New York).
- If no information follows, our response appeared on the previous page.

Items we investigated	Outcome
Credit items	
CAPITAL ONE FSB	Remains
781260177770...	

Experian
NCAC
P.O. Box 9595
Allen TX 75013

If you have questions
Locate your Report Number, then contact us **within 90 days** from the date on this report.

For efficient, self-directed **service, log on to** www.experian.com/disputes.
For assistance, call
800 583 4080

M - F 9am - 5pm in your time zone.

To order a copy of your Experian Credit Score, call 1 888 322 5583.

Protect and manage your credit with Credit Manager, www.creditexpert.com

By law, we cannot disclose certain medical information (relating to physical, mental, or behavioral health or condition). Although we do not generally collect such information, it could appear in the name of a data furnisher (i.e., "Cancer Center") that reports your payment history to us. If so, those names display in your report, but in reports to others they display only as MEDICAL PAYMENT DATA. Consumer statements included on your report at your request that contain medical information are disclosed to others.

0014327 2 MB 0.534 L 361
MICHAEL J DAWE
744 WHEELWRIGHT RD
DARRE MA 01005-8850
***** MIXED AADC 683

0002451449 L-361-14327-0106000



experian

Prepared for
MICHAEL J DAWE
Report number
0888013775

Report date
July 01, 2004
www.experian.com/disputes
Call 800 583 4080

Page 2 of 12

Information affecting your creditworthiness

Items listed with dashes before and after the number, for example -1--, may have a potentially negative effect on your future credit extension and are listed first on the report.

Credit grantors may carefully review the items listed below when they check your credit history. Please note that the account information connected with some public records, such as bankruptcy, also may appear with your credit accounts listed later in this report.

Credit items

Source/ Account number (except last few digits)	Date opened/ Reported since	Date of status/ Last reported	Type/ Term/ Monthly payment	Responsibility	Credit limit or original amount/ High balance	Recent balance/ Recent payment	Status Details
-1-- CAPITAL ONE FSB PO BOX 26625 RICHMOND VA 23261 78126017770....	9-2000/ 9-2000	1-2003/ 6-2004	Revolving/ 84 Months/ \$0	Individual	\$15,381 / \$16,223	\$16,223 as of 6-2004/	Status: Account charged off/Past due 120 days. \$13,894 written off. \$16,223 past due as of 6-2004. Account history: Charge Off as of 6-2004, 5-2004, 3-2004, 10-2003 to 2-2004, 6-2003, 4-2003, 12-2002 120 days as of 8-2002 90 days as of 7-2002 60 days as of 6-2002 30 days as of 5-2002

Jason David Fregeau
Attorney at Law
47 Lincoln Road
Longmeadow, MA 01106
Tel. 413-567-2461
Fax 413-567-2932
Also admitted in Ohio

August 26, 2004

By Certified U.S. Mail

Beverley L. Crump,
Registered Agent
Capital One Bank
11 South 12th Street
Richmond, VA 23219

Re: Dawe v. Capital One Bank

Dear Ms. Crump:

I represent Michael Dawe regarding an item that appears on his credit reports. All communications, written or verbal, regarding this matter are to come only to me. Defendant's acts and communications contain violations of the Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681u ("FCRA"), the Massachusetts Consumer Protection Act, M.G.L. ch. 93A ("Chapter 93A"), common law negligence, and common law defamation.

Defendant brought suit against Mr. Dawe on the alleged debt on December 17, 2002. This case was involuntarily dismissed on June 10, 2003 (attached). Pursuant to Massachusetts Rule of Civil Procedure 41(b)(3), this dismissal was with prejudice. Yet Defendant continues to allege that Mr. Dawe owes the debt. Letter from Defendant (April 23, 2004) (attached). Defendant even sent the account to Account Solutions Group for collections. See Letter from ASG (Nov. 10, 2004); Letter from ASG (Nov. 19, 2004) (attached).

On January 26, 2004, Mr. Dawe obtained copies of his credit reports from Equifax and Trans Union (redacted copies attached).

Beverley L. Crump,
Registered Agent
Capital One Bank
August 26, 2004
page 2

These reports show Defendant's trade line for the alleged debt. Mr. Dawe wrote to Equifax, Experian, and Trans Union on June 9, 2004, via certified mail, return receipt requested, disputing the trade line (letters attached). Defendant confirmed its trade line as reported by all three credit bureaus (redacted credit histories attached).

Defendant has violated the FCRA and Chapter 93A as well as common law negligence and common law defamation in failing to timely eliminate the negative information from Mr. Dawe's credit history. This letter is sent pursuant to Chapter 93A:9 in an attempt to settle this matter prior to litigation.

Mr. Dawe demands that the entry be deleted and \$50,000 to cover actual damages, statutory damages, and equitable relief as well as attorney fees, expenses, and costs to date. Defendant has thirty days to respond, until September 20, 2004. If we do not hear from Defendant by that date, then we will file suit in federal district court in Worcester, Massachusetts, seeking damages and injunctive relief.

Sincerely,



Jason David Fregeau, Esq.

cc: Michael Dawe

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<input type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input type="checkbox"/> Attach this card to the back of the mail piece, or on the front if space permits.		A. Signature <i>X [Signature]</i>	
		<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
		B. Received by (Printed Name)	
		C. Date of Delivery <i>8/30/01</i>	
1. Article Addressed to: <i>Beverly Gump</i> <i>Reg Agent</i> <i>Co A 2</i> <i>1150 12th St</i> <i>Richmond VA 23219</i>		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7003 2260 0001 2107 4652	
PS Form 3811, August 2001		Domestic Return Receipt 102-00-10-11-1540	



Capital One Bank
15000 Capital One Drive
Richmond, VA 23238

September 21, 2004

Trisha Payne Campbell
Attn: 12072-0300
Direct Dial (804) 284-2796
Facsimile (804) 284-2757

VIA FACSIMILE AND OVERNIGHT MAIL

Jason D. Fregeau, Esq.
47 Lincoln Road
Longmeadow, MA 01106

Re: Michael Dawe v. Capital One Bank
Account No: 781260-1777706746

Dear Mr. Fregeau:

Please accept this letter as Capital One Bank's formal response to your letter requesting a demand for relief under 93A of the Massachusetts Consumer Protection Statute, which was dated August 26, 2004, and was received in our office on September 16, 2004. Please be assured that I have thoroughly read your letter and hope this response sufficiently addresses your complaint.

Michael Dawe applied for a personal loan ("Loan") with Capital One Bank ("Capital One") in September of 2000 for \$15,381.00. He made monthly payments of \$262.55 until April of 2002, and eventually charged-off as a profit-loss account in September of 2002 for non-payment. As of this date, the Account has not been settled and still has an outstanding balance of \$16,641.04.

I have also reviewed the Judgment of Dismissal filed in the Trial Court of Massachusetts on June 10, 2003, and have confirmed with the court that the action was dismissed *without* prejudice, which allowed Capital One to continue collection efforts. Mr. Dawe requested that Capital One cease all collection efforts on April 20, 2004, and we discontinued all collection efforts on April 20, 2004.

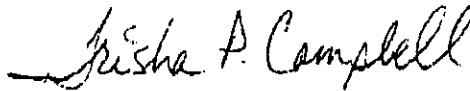
Notwithstanding that there are clearly no damages nor any real harm done in this situation, in the spirit of compromise, and without prejudice to any party, Capital One is willing to accept Eight Thousand and No/100 Dollars (\$8,000.00), payable to Capital One Bank, as payment in full for final settlement of his Loan.

[REDACTED]

Page 2

I hope this letter sufficiently addresses your concerns. I invite you to call me directly at (804) 284-2796 should you require further information or explanation regarding Capital One's position on this matter.

Sincerely,



Trisha Payne Campbell
Litigation Specialist

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

Michael Dave

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

Worcester

DEFENDANTS

Capital Federal Bank

2004 SEP 27 P 12:37

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

Virginia

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Jason David Fregeau Esq.
47 Lincoln Road
Longmeadow, MA 01106
413/567-2461

ATTORNEYS (IF KNOWN)

04-40192

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

Violations of the Fair Credit Reporting Act and state law

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7608

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

9/24/04

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

04-40192

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY)
Dawson v. Capital One Bank FILED
FEDERAL CLERK'S OFFICE
SEP 27 P 12:37
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).
- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- X II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.
3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).
4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT? YES ☐ NO ☒
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403) YES ☐ NO ☒
IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY? YES ☐ NO ☒
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284? YES ☐ NO ☒
7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS (WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C)). YES ☐ NO ☒
OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? - YES ☐ NO ☒
(SEE LOCAL RULE 40.1(D)).
8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF THE DISTRICT? YES ☒ NO ☐
(a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE? Central
9. IN WHICH SECTION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? Central
10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE CENTRAL SECTION; YES ☐ NO ☐ OR WESTERN SECTION; YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME

Jason David Fregeau Esq.

ADDRESS

47 Lincoln Road

TELEPHONE NO.

Longmeadow, MA 01106

413/567-2461

(Cateform rev - 3/97)